



**NAILAH K. BYRD**  
**CUYAHOGA COUNTY CLERK OF COURTS**  
1200 Ontario Street  
Cleveland, Ohio 44113

**Court of Common Pleas**

**New Case Electronically Filed:**  
**January 23, 2019 16:24**

By: CHRISTOPHER P. WIDO 0090441

Confirmation Nbr. 1606850

ANN MARIE PRZYBYS DONEGAN

CV 19 910041

vs.

**Judge:** DICK AMBROSE

CITY OF OLMSTED FALLS

**Pages Filed:** 10

IN THE COURT OF COMMON PLEAS  
CUYAHOGA COUNTY, OHIO

ANN MARIE PRZYBYS DONEGAN	)	CASE NO:
8845 Columbia Road	)	
Olmsted Falls, Ohio, 44138	)	
	)	
Plaintiff,	)	JUDGE
	)	
vs.	)	<u>COMPLAINT FOR DAMAGES</u>
	)	
CITY OF OLMSTED FALLS	)	<u>(Jury Demand Endorsed)</u>
26100 Bagley Road	)	
Olmsted Falls, Ohio 44138	)	
	)	
Defendant	)	

Plaintiff Ann Marie Pryzbys Donegan, by and through undersigned Council, as her  
Complaint against Defendant, states and avers the following:

**PARTIES & VENUE**

1. Plaintiff Ann Donegan is a resident of the City of Olmsted Falls, Cuyahoga county, state of Ohio.
2. Defendant City of Olmsted Falls ("Olmsted Falls") is a duly organized political subdivision and/or municipality recognized and existing under the laws of Ohio.
3. Personal jurisdiction is proper over Defendant pursuant to Ohio Revised Code No.2307.382(A)(1).
4. Venue is proper pursuant to Civ.R. 3(B)(3).
5. The Court is a court of general jurisdiction over the claims presented herein, including all subject matters of the Complaint.

**FACTUAL ALLEGATIONS**

6. Donegan is the former Mayor of the City of Olmsted Falls.
7. Donegan was the first female to ever serve in the role of Mayor for Olmsted Falls.



8. Prior to serving as Mayor, Donegan had served in Olmsted Falls's City Council for approximately 10 years.
9. During Donegan's time in the City Council, she served as a representative and employee of Olmsted Falls.
10. Pursuant to the Olmsted Falls Employee Policy Manual and codified ordinances, Donegan was entitled to and provided with benefits generally afforded to full-time non-union employees of Olmsted Falls.
11. Donegan's base compensation as Mayor is set forth by Olmsted Falls Ord. No. 230.03, which sets out a base salary, fifteen days of paid vacation per year, and other employee benefits in accordance with and pursuant to Olmsted Falls Ord. Nos. 254.05; 254.06; 254.07; and 254.11.
12. Olmsted Falls Ord. No. 230.03 does not contain any language stating that the Mayor's vacation time is forfeited if it is not used.
13. Olmsted Falls Ord. No. 230.03 does not contain any language stating that the Mayor will not be entitled to a payout of unused vacation time at the end of their term.
14. In addition to the compensation and benefits set forth by Olmsted Falls Ord. No. 230.03, Donegan also earned sick leave at the rate of 4.6 hours for every 80 hours worked.
15. The Mayor immediately preceding Donegan, Robert Blomquist, also received sick leave during his term as Mayor.
16. Donegan's first term as Mayor terminated on or about January 2, 2018.
17. Donegan was succeeded by the current Mayor of Olmsted Falls, James Graven.
18. By the end of Donegan's term as Mayor, she had accumulated approximately 485.36 hours of unused sick leave.
19. Donegan's accumulated sick leave balance was listed on Donegan's paystubs.



20. Pursuant to the ordinances of Olmsted Falls, employees with ten or more years of public service are entitled to be paid for forty (40) percent of any balance of unpaid sick leave they have accumulated at the time their employment terminates for any reason, other than for conviction of a felony. *See* Olmsted Falls Ord. No. 254.05.
21. Olmsted Fall's ordinances do not define "service" or "years of public service."
22. Olmsted Fall's ordinance do not state that "years of public service" must be "full time" for the payout provisions contained in Ord. No. 254.05 to apply.
23. Olmsted Fall's ordinance do not state that "years of public service" must be spent as an employee for the payout provisions contained in Ord. No. 254.05 to apply.
24. Olmsted Fall's ordinance do not state that "years of public service" must be consecutive for the payout provisions contained in Ord. No. 254.05 to apply.
25. Between her time in City Council and in Mayor's office, Donegan had a cumulative fourteen years of service to Olmsted Falls at the time her term as Mayor concluded.
26. Donegan was entitled to a payout of forty (40) percent of her unpaid sick leave when her term as Mayor concluded.
27. Donegan's sick leave was an earned benefit.
28. The Mayor who immediately preceded Donegan, Robert Blomquist, received a payout of his accumulated sick leave and unused vacation time when his term as Mayor concluded in or around 2013.
29. Subsequent to Donegan's term as Mayor concluding, Olmsted Falls refused to pay Donegan her accumulated sick leave.
30. Olmsted Falls knowingly, willfully, and intentionally violated its own ordinances when it refused to pay Donegan her accumulated sick leave.



31. By the end of Donegan's term as Mayor, she had accumulated 440 hours of unused vacation time.
32. Donegan was entitled to her unused vacation time once her term as Mayor concluded.
33. Donegan's vacation time was an earned benefit.
34. In or around November and/or December of 2017, Olmsted Fall's Finance Director, Steve Presley, asked the Law Director, Gregory Sponseller, to provide a formal legal opinion as to whether Donegan was entitled to her unpaid vacation time.
35. On December 20, 2017, Sponseller provided a formal legal opinion to Presley in which he concluded "it is my opinion, and you are so advised that the Mayor should be paid for all unused vacation time to which she was entitled during 2014 through 2017."
36. On December 28, 2017, Donegan received a check from Olmsted Falls for \$6,035.31, representing a payout for approximately 334 hours of unused vacation time ("First Payout Check").
37. The correct amount for Doengan's unused vacation time should have been for 440 hours, not 334 hours.
38. Donegan refused to accept the First Payout Check because it did not compensate her for all of her owed vacation time or for any of other accumulated benefits, to her sick leave personal leave balances.
39. Donegan notified Olmsted Falls that the check she had received for her unused vacation time was insufficient.
40. Pursuant to the ordinances of Olmsted Falls, Donegan was entitled to payment for up to five personal days per year during her employment as Mayor.



41. Olmsted Fall's Ordinances further establishes that "[a]ll unused time as of December 31st of each year will be paid to the employee on the last regular payroll of January of the following year."
42. Upon information and belief, former Mayor Robert Blomquist received and used personal leave during his term as Mayor.
43. Donegan's personal days were an earned benefit.
44. Donegan never took a personal day while employed as Mayor.
45. Olmsted Falls did not pay Donegan her annual entitlement of personal days each year of her term as Mayor as required by Olmsted Falls ordinances.
46. Subsequent to the end of her term as Mayor, Donegan demanded payment of her accumulated Personal Days.
47. Olmsted Falls refused to pay Donegan her accumulated Personal Days.
48. Olmsted Falls knowingly, willfully, and intentionally violated its own ordinances when it refused to pay Donegan her accumulated Personal Days.
49. Olmsted Falls' refusal to pay Donegan the accumulated Personal Days to which she was entitled subsequent to the end of her term as Mayor was motivated by political retribution.
50. Donegan's term as Mayor ended on January 2, 2018.
51. Olmsted Falls failed to pay Donegan her full salary or to continue to make contributions to Donegan's Ohio Public Employee Retirement System Account ("OPERS") through January 2, 2018, as required by Olmsted Falls Ord. No. 230.03.
52. Subsequent to the end of Donegan's term as Mayor, Donegan again demanded payment for her unpaid vacation time, sick leave, personal leave, and remaining unpaid salary and OPERS contribution.



53. In response to Donegan's demands, Olmsted Falls paid Donegan for only those unused hours of vacation time she accumulated during 2017, totaling \$3,163.20.
54. To date, Olmsted Falls has persisted in its refusal to pay Donegan for her full balance of her unpaid vacation time.
55. To date, Olmsted Falls has persisted in its refusal to pay Donegan for her full balance of unpaid sick leave.
56. To date, Olmsted Falls has persisted in its refusal to pay Donegan for her full balance of unpaid personal leave.
57. To date, Olmsted Falls has failed to pay Donegan all wages to which she was entitled during her term as Mayor.

**COUNT I: UNLAWFUL WITHHOLDING OF EARNED VACATION PAY.**

58. Donegan restates each and every prior paragraph of this complaint, as if it were fully restated herein.
59. Olmsted Falls Ord. No. 230.03 provide that Donegan would receive 15 days of paid vacation per year.
60. No City ordinance that applied to the office of the Mayor allowed for Olmsted Falls to withhold, forfeit, or fail to pay Donegan for her any of her unused vacation time.
61. In recognition of the plain meaning of Olmsted Falls Ord. No. 230.03, Olmsted Falls paid its former Mayor, Robert Blomquist, the full balance of his unused vacation time accumulated over his term as Mayor.
62. Donegan is entitled to payment for the full balance of her unpaid vacation time. See *Korsnak v. CRL, Inc.*, 8th Dist. Cuyahoga No. 84403, 2004-Ohio-6116.
63. In depriving Donegan of her unused vacation time Olmsted Falls acted with malice and conscious disregard of her rights.



64. As a result of Olmsted Falls' wrongful conduct as stated above, Donegan has suffered and continues to suffer damages.

**COUNT II: UNLAWFUL WITHHOLDING OF EARNED SICK LEAVE PAY.**

65. Donegan restates each and every prior paragraph of this complaint, as if it were fully restated herein.

66. Olmsted Falls Ord. No. 254.05(a) and Policy 4.2 of the Olmsted Falls Employee Policy Manual provide that Donegan was to receive 4.6 hours of sick leave for every eighty hours of service.

67. Donegan accumulated approximately 485.36 hours of unused sick leave during her term as Mayor.

68. Olmsted Falls Ord. No. 254.04 (b) and Policy 4.2 of the Olmsted Falls employee handbook further provide that "[a]ny employee whose employment terminates for any reason, except for conviction of a felony, after ten (10) or more years of service with the City, may elect, at the time of the termination, to be paid in cash for forty percent (40%) of unused sick leave credit."

69. In recognition of the plain meaning of Olmsted Falls Ord. No. 254.04, Olmsted Falls paid its former Mayor, Robert Blomquist, the full balance the unused sick leave he was owed at the time his term as Mayor ended.

70. Donegan is entitled to payment for forty (40) percent of her unused sick leave time. *Korsnak, Supra.*

71. In depriving Donegan of her unused sick leave, Olmsted Falls acted with malice and conscious disregard of her rights.

72. As a result of Olmsted Falls' wrongful conduct, Donegan has suffered and continues to suffer damages.





**COUNT III: UNLAWFUL WITHHOLDING OF EARNED PERSONAL LEAVE PAY.**

73. Donegan restates each and every prior paragraph of this complaint, as if it were fully restated herein.
74. Olmsted Fall's Employee Policy Manual provides that Donegan was entitled to five (5) personal days per year.
75. Olmsted Fall's Employee Policy Manual provides that unpaid personal days will be paid on December 31 of each year.
76. Olmsted Falls failed to pay Donegan for her unused personal days during her term as Mayor.
77. Donegan is entitled to 20 days, or 160 hours, of pay for her unused personal days. *Korsnak, Supra.*
78. In refusing to pay Donegan for her accumulated personal days subsequent to Donegan's term as Mayor, Olmsted Falls acted with malice and conscious disregard of Donegan's rights.
79. As a result of Olmsted Falls' wrongful conduct, Donegan has suffered and continues to suffer damages.

**COUNT IV: UNLAWFUL WITHHOLDING OF PAY IN VIOLATION OF OLMSTED FALLS ORD. NO. 230.03.**

80. Donegan restates each and every prior paragraph of this complaint, as if it were fully restated herein.
81. Olmsted Falls Ord. No. 230.03 provide that Donegan was to receive a salary during her term as Mayor.
82. In connection with her salary, Olmsted Falls made contributions to Donegan's OPERS account.
83. Olmsted Falls ceased paying Donegan her salary or making OPERS contributions in or around mid-December 2017.
84. Donegan did not receive her last paycheck or OPERS contribution as Mayor.



85. As a result of Olmsted Falls' wrongful conduct, Donegan has suffered and continues to suffer damages.

**PRAYER FOR RELIEF**

WHEREFORE, Plaintiff, Ann Donegan prays for judgment against Defendant and seeks an order from the Court as follows:

- (a) An award against Defendant of compensatory and monetary damages to compensate Donegan for unpaid wages and her unpaid vacation time, sick leave, and personal leave balances, in excess of \$25,000.00;
- (b) An award of punitive damages against Defendant in an amount in excess of \$25,000;
- (c) An award of reasonable attorneys' fees and non-taxable costs for Donegan's claims as allowable under law;
- (d) An award of the taxable costs of this action; and
- (e) An award of such other relief as this Court may deem necessary and proper.

Respectfully submitted,

/s/ Chris P. Wido

Chris P. Wido (0090441)

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*Attorneys for Ann Donegan*



**JURY DEMAND**

Plaintiff Ann Donegan demands a trial by jury by the maximum number of jurors permitted.

/s/ Chris P. Wido

Chris P. Wido (0090441)

**THE SPITZ LAW FIRM, LLC**

